IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

SATURDAY, THE TWENTIETH DAY OF AUGUST
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE Mr. JUSTICE C.V.RAMULU

WRIT PETITION No.21370 of 1999

Between:

The Depot Manager, A.P.S.R.T.C.,
Kothagudem Depot, Kothagudem,
Khammam District.

..... PETITIONER

AND

1 U.Rajamallu, E.302877, C/o P.Surender Kumar,
Padmakshi Colony, Hanamakonda,
Warangal.
2 Industrial Tribunal cum Labour Court, Rep. by its Presiding Officer.
Warangal.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue any appropriate writ, order or direction particularly one in the nature of writ of certiorari calling for the records pertaining to the award in ID No.247/95 of the 2nd respondent herein dt.26-9-98 and published on 10-2-99 and quash the same as being illegal, arbitrary and unjust and pass all such other orders as may be deemed just and necessary in the circumstances of the case.

ORAL ORDER:

This Writ Petition is filed by the Depot Manager, Andhra Pradesh State Road Transport Corporation, Kothagudem Depot (Management) being aggrieved by the Award dated 26-9-1998 made in I.D.No.247 of 1995 on the file of the Industrial Tribunal-cum-Labour Court, Warangal, wherein the claim petition filed by the 1st respondent-workman under Section 2-A(2) of the Industrial Disputes Act,1947 (for short 'the Act') was answered in favour of the workman granting the relief of reinstatement with continuity of service, attendant benefits and 50% of back wages.

There is no necessity of going into all the details. It is suffice to notice that, according to the management, when the respondent-workman (Driver) was on duty of Sampathnagar service on 31-1-1995/ 1-2-1995, he operated one trip and thereafter he was found absconding and was in intoxicated condition while performing the night duty service. After conducting a detailed enquiry into the matter, the petitioner was removed from service on 16-6-1995. Aggrieved by the same, he filed an appeal before the competent authority and the same was dismissed on 20-7-1995. He further filed a review before the reviewing authority and that was also dismissed on 30-8-1995. Respondent No.1 having not satisfied with this, filed a claim petition under Section 2-A(2) of the Act, which was taken on file as I.D.No.247 of 1995 on the file of the Industrial Tribunal-cum-Labour Court, Warangal. The Tribunal, after a detailed consideration of the matter, came to the conclusion that the order of removal was not justified and the same is liable to be set aside. Further, the 1st respondent-workman is entitled for continuity of service and attendant benefits, apart from 50% of back wages. According to the Management-writ petitioner, the Award passed by the Tribunal is arbitrary, illegal and liable to be set aside.

Though no counter affidavit is filed, learned counsel for the 1st respondent contended that absolutely no case is made out to show that the respondent-workman was in intoxicated condition at the time of driving the bus. In fact, he had handed over the key and tray to the Controller whom he had informed as to his sickness also. Therefore, the Tribunal rightly came to the conclusion that the removal order passed by the management was not justified and the workman is entitled for the relief as noted above.

I have given my earnest consideration to the respective submissions made by the

learned counsel on either side and gone through the entire material made available on record including the impugned Award.

At the outset, I am of the opinion that the Tribunal has not committed any error warranting interference of this Court under Art.226 of the Constitution of India. Admittedly, the misconduct alleged against the workman is only absconding from duty after performing the first trip of the night duty. Further, he was in intoxicated condition while performing the duties at 1130 hours. Insofar as the first charge as to absconding from duty is concerned, the Duty Controller one M.N. Reddy categorically stated that the workman informed him about his sickness and suffering with fever and also his inability to drive the vehicle and discharge his duties and left the place. There was no other evidence to show that the petitioner absconded from duty without informing anybody. Insofar as intoxication is concerned, absolutely there is no evidence except the passengers saying that he was under intoxicated condition. None of them were examined before the Enquiry Officer nor the workman was subjected to medical test. Thus, neither it is a case of absconding from duty nor it is proved that the workman drove the vehicle in an intoxicated condition. Under these circumstances, the Labour Court rightly came to the conclusion that the removal order passed by the Management is arbitrary, illegal and liable to be set aside; accordingly, directed reinstatement of the workman with continuity of service and other attendant benefits and also with 50% of back wages. I am of the opinion that the Tribunal has not committed any error in coming to such conclusion. The Writ Petition is devoid of merits and liable to be dismissed.

Accordingly, the Writ Petition is dismissed. No order as to costs.

20-8-2005

prk